

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF MEASUREMENT)	AMENDED PRELIMINARY
OF DIVERSION OF WATER BY)	ORDER REQUIRING
HIDDEN SPRINGS COMMUNITY, LLC)	DIVERSION MEASUREMENT
_____)	

A preliminary order requiring diversion measurement was issued to Hidden Springs Community, LLC (Hidden Springs) on February 16, 2000 by the Idaho Department of Water Resources (IDWR). On March 3, 2000, Hidden Springs petitioned IDWR for reconsideration of the order.

Hidden Springs asserts that it “does not intend to divert water from drain ditches or the shallow ground water source on the Hidden Springs development during the 2000 irrigation season.” Hidden Springs also states that it “expects to be able to meet its irrigation requirements during 2000 under an approved land application treatment program using wastewater resulting from domestic and other authorized uses of municipal water obtained from United Water Idaho.” Finally, Hidden Springs argues that “the basic premise under which the Department’s Preliminary Order requiring the installation of measuring devices and reporting of diversions from Dry Creek and the shallow ground water source is not now applicable.”

Hidden Springs proposed a plan for future measurement and reporting, if necessary:

Hidden Springs proposes that before it implements the recapture and reuse of its irrigation-generated return flows, it would provide the Department with specifications for measuring devices and a plan for recording and reporting diversions from Dry Creek and ground water, and will obtain the Department’s approval of the specifications and plan. The specifications and plan would conform substantially to the requirements of the Preliminary Order.

The preliminary order was issued to generate water diversion data so the surface water and ground water quantities diverted could be compared. The order purposely included all ground water, not just water diverted from the shallow collector.

Hidden Springs claimed domestic uses of ground water in the Snake River Basin Adjudication. Hidden Springs should not be required to measure diversion from these domestic wells unless IDWR finds that the domestic use is being exceeded.

IDWR should not require installation of measuring devices, measurement, and reporting if ground water will not be diverted. This order will continue to document the requirements of measurement should Hidden Springs divert ground water in the future.

FINDINGS OF FACT

1. Hidden Springs has claimed in the Snake River Basin Adjudication (SRBA) the right to divert water from Dry Creek, tributary to the Boise River, for the irrigation of approximately 210 acres in Sections 5, 31, and 32, Township 4 North, Range 2 East, B.M. Hidden Springs also owns several water rights authorizing diversion of ground water for domestic and stockwater purposes.

2. The SRBA claims filed by Hidden Springs discuss the collection of shallow ground water by drainage ditches on the property and reuse of the recaptured water for irrigation purposes.

3. During the irrigation season of 1997, Hidden Springs constructed a ground water collector. A pumping system diverts ground water from the collector for beneficial use on Hidden Springs' property. Hidden Springs asserts it is entitled to capture this ground water pursuant to Idaho Code § 42-228.

4. The Idaho Department of Water Resources (IDWR) determined that a volume 43 acre-feet of water was identifiable as having been contributed by surface water diversions from Dry Creek during 1997, and informed Hidden Springs that a volume of 43-acre feet could be diverted from ground water annually. The letter authorizing the withdrawal of 43-acre feet annually also stated:

The withdrawal of 43 acre-feet assumes that surface water is being aggressively applied to and beneficially used on this property where the ground water is being withdrawn.

5. At the present time, no data are being collected to establish the quantity of water diverted from Dry Creek and the quantity of water diverted from ground water.

6. To effectively determine the amount of ground water that may be diverted, Hidden Springs must monitor and/or record the water delivered for irrigation from all of its points of diversion described by its water rights and or water right claims. Diversion of water for domestic purposes as described by Idaho Code § 42-111 should be excepted from this requirement. Points of diversion include diversions to recapture shallow ground water.

7. Hidden Springs has stated that it will not divert shallow ground water for irrigation in 2000. Hidden Springs should not be required to measure water until it diverts ground water.

CONCLUSIONS OF LAW

1. Idaho Code § 42-701 states that the director may order the installation of measuring devices. Section 42-701 also states that the water users may choose, upon approval of the director, to establish withdrawals using electrical consumption records if installation of measuring devices is burdensome.

2. Idaho Code § 42-701 also states that users must file an annual report with IDWR, along with a report processing fee, up to \$25.00 per diversion. Section 42-701 describes the information that must be reported:

. . . a legal description of the point of diversion, the number assigned to each water right diverting from the public waters of the state, the maximum authorized rate of diversion, the maximum rate at which diversions have been made during the reporting period, the total volume diverted during the reporting period, and a description of the physical changes to the diverting works that have been made during the reporting period. The appropriator shall furnish each year the depth to water in any well prior to commencement of pumping, the depth to water during the pumping period, and the pressure in the pipe distribution system during diversion if the well is not free flowing. When the director of the department of water resources determines that any person is in substantial violation of any provision of this section or any rule, permit, condition of approval or order issued or promulgated pursuant to this section, the director may commence an administrative enforcement action by issuing a written notice of violation in accordance with the provisions of section 42-1701B, Idaho Code.

ORDER

IT IS HEREBY ORDERED that Hidden Springs shall install measuring devices, as approved by IDWR, for all of its ground water and surface water diversions used for irrigation prior to diverting any ground water for irrigation purposes. The measuring devices must be capable of measuring both instantaneous flow rate and total volume of water diverted. Closed system devices shall be calibrated after installation by a professional engineer or other qualified person approved by IDWR. Standard open channel measuring devices need not be calibrated if constructed and installed according to proper specifications.

IT IS FURTHER ORDERED that Hidden Springs shall begin measuring both its surface water and ground water diversions prior to any irrigation from ground water. Alternatively, Hidden Springs shall obtain a written, signed agreement with IDWR to provide information to IDWR from which to calculate its diversions with power records prior to diverting any ground water for irrigation.

IT IS FURTHER ORDERED that Hidden Springs shall measure the static water level once in each of its irrigation wells prior to the commencement of pumping, and shall measure the water level once in each of its irrigation wells during pumping.

IT IS FURTHER ORDERED that Hidden Springs shall file an annual report with IDWR on or before January 15 of the year following any irrigation with ground water, accompanied by a \$25.00 report processing fee. Water measurement reports must also be filed in future years on or before January 15 following the year of measurement, with a report processing fee that will be established annually. Reports shall be filed on forms provided by IDWR or alternatively in a format approved by IDWR.

IT IS FURTHER ORDERED that Hidden Springs shall submit and IDWR shall approve a plan for measurement and reporting prior to diversion of ground water for irrigation purposes.

DATED this 30 day of March, 2000.

____/S/_____
GARY SPACKMAN
Regional Manager

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ____ day of March, 2000, I caused a true and correct copy of the foregoing **PRELIMINARY ORDER REQUIRING DIVERSION MEASUREMENT** to be mailed to the following parties, by placing a copy in a self-addressed, stamped envelope addressed as follows:

Hidden Springs Community LLC
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